



RESTRICTIVE COVENANT

OWNER: Southwest Hilltop, L. P., a Delaware limited partnership

ADDRESS: 2001 Bryan Street, Suite 3700
Dallas, Texas 75201

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: See Exhibit "A" attached hereto and made a part hereof for all purposes.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions:

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. The use of coal tar based asphalt sealants for construction or repair of asphaltic concrete paving is prohibited on the Property.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED as indicated below.

OWNER:

SOUTHWEST HILLTOP, L.P.,
a Delaware limited partnership

TCR Hilltop Limited Partnership,
a Texas limited partnership,
its Managing General Partner

By: TCR South Central 1999, Inc.,
a Texas corporation, its
general partner

By: _____
Robert R. Buzbee, its president

Date: 2/7/06

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
COUNTY OF ~~TRAVIS~~ §
 Dallas

This instrument was acknowledged before me on this the 7th day of February, 2006, by Robert R. Buzbee, president of TCR South Central 1999, Inc., a Texas corporation, the general partner of TCR Hilltop Limited Partnership, a Texas limited partnership, the Managing General Partner of Southwest Hilltop, L.P., a Delaware limited partnership on behalf of Southwest Hilltop, L.P., a Delaware limited partnership.



Notary Public, State of Texas

FIELD NOTES FOR AN OLD LANDFILL WITH BUFFER ZONE:

BEING a part of that certain 14.9958 acre tract of land out of the August Herold Survey No. 59, Abstract No. 2547, having been acquired by the Mercury Savings Association of Texas and the Ben Milam Savings and Loan Association from the Mercury Financial Corporation and the Ben Milam Financial Corporation and being recorded in Vol. 9730 on page 226 et seq of the Deed Records of Travis County, Texas:

BEGINNING at the south corner of the herein described tract of land, being in the south line of the above mentioned 14.9958 acre tract of land, from which BEGINNING point, the south corner of the said 14.9958 acre tract of land bears $S48^{\circ}-39'-13''E$ 122.06 feet;

THENCE along the southwest line of the herein described tract of land and the southwest line of the said 14.9958 acre tract of land $N48^{\circ}-39'-13''W$ for a distance of 306.03 feet to a point for the southwest corner of the herein described tract of land;

THENCE crossing the said 14.9958 acre tract of land along the west line of the herein described tract of land $N4^{\circ}-45'-05''E$ for a distance of 339.47 feet to a point for the most westerly northwest corner of the herein described tract of land;

THENCE along the northwest line of the herein described tract of land $N47^{\circ}-37'-25''E$ for a distance of 219.86 feet to a point for the most northerly northwest corner of the herein described tract of land;

THENCE along the north line of the herein described tract of land $S89^{\circ}-30'-15''E$ for a distance of 259.76 feet to a point for the northeast corner of the herein described tract of land;

THENCE along the east line of the herein described tract of land $S1^{\circ}-55'-06''E$ for a distance of 300.00 feet to a point for the east corner of the herein described tract of land;

THENCE along the southeast line of the herein described tract of land $S30^{\circ}-48'-54''W$ for a distance of 450.12 feet to the point of BEGINNING;

AND containing 5.1983 acres of land, more or less.

April 23, 1990

EXHIBIT "A"

AFTER RECORDING RETURN TO:

LAW DEPARTMENT
CITY OF AUSTIN
P.O. BOX 1088
AUSTIN, TEXAS 78767

ATTN: D. MINTER, PARALEGAL

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2006 Mar 20 10:01 AM 2006048835

HERRERAM \$28.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Brown | McCarroll
L.L.P.

111 Congress Avenue, Suite 1400, Austin, Texas 78701-4043
512-472-5456 fax 512-479-1101

direct (512) 479-9710 jharris@mailbmc.com

January 21, 2005

VIA FAX

Robert Heil, Senior Planner
Neighborhood Planning & Zoning Department
City of Austin

Re: Zoning Case No. C14-04-0182, 0 Wier Hills Drive

Dear Mr. Heil:

By its signature below, my client, TCR Hilltop Limited Partnership, is agreeing to execute and record a restrictive covenant to prohibit the use of coal tar based sealants in connection with the construction or repair of asphaltic concrete paving on the property covered by this zoning case after it closes on its purchase of this property from Southwest Travis County Road District No. 1 which is the owner of the property and the applicant in this case. This restrictive covenant will be executed and recorded by TCR Hilltop Limited Partnership before it develops the property. TCR Hilltop Limited Partnership is processing this zoning application on behalf of Southwest Travis County Road District No. 1 and pursuant to an agreement with Southwest Travis County Road District No. 1.

If you should have any questions or need any additional information, please let me know.

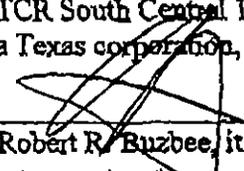
Yours very truly;

Jerry L. Harris
Jerry L. Harris

Agreed to and Accepted By:

TCR Hilltop Limited Partnership,
a Texas Limited Partnership

By: TCR South Central 1999, Inc.,
a Texas corporation, its general partner

By: 
Robert R. Buzbee, its president

cc: Councilmember Daryl Slusher (Via Fax)
Tina Bui (Via Fax)
Annick Beaudet

2535778.106407.41

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